

MITCH AVALON BACKGROUND PAPER

Background. The San Francisco Bay Regional Water Quality Control Board issues a joint Municipal Regional Permit (NPDES or MS4 stormwater permit) to Contra Costa County, its 19 incorporated cities, and its Flood Control and Water Conservation District (Permittees) on a five year permit cycle. The Joint Municipal Regional Permit (MRP) is managed overall by the Contra Costa Clean Water Program, an organization established by agreement with all Permittees and staffed with five County employees. Clean Water Program funding is shared equitably amongst all Permittees and decisions on budget and policy issues are through a Management Committee made up of representatives from each of the Permittees.

In 1993 (prior to Proposition 218 in 1996) Contra Costa County legislatively modified its Flood Control District Act to allow the Flood Control and Water Conservation District to assess an assessment on each parcel in the County to fund clean water services. The assessments were originally established as a range, estimated for each city, with the average top assessment around \$35 per parcel per year. When it was first implemented in 1993 each city assessment started at the lowest assessment in the assessment range. Each spring the cities and County send a resolution to the Flood Control District outlining their assessment for the next fiscal year. As each subsequent stormwater permit was issued and costs escalated, the assessments started increasing. About 10 years ago all the city and County assessments had reached the top of their range. Additional funding was needed to meet program goals and MRP compliance costs.

Funding Initiative. In 2012 the Clean Water Program launched a funding initiative for a new parcel assessment. Recognizing the eventual need for this initiative, the Clean Water Program had been budgeting about \$300,000 per year for the prior six years to fund it. Consultants were hired and detailed cost analyses were assembled. These analyses showed the following:

- The permit compliance costs for the Permittees was \$37 million per year.
- The dedicated revenue available from parcel assessments was maxed out at \$14 million per year.
- The annual funding shortfall amounted to \$23 million per year.
- The annual budget for the Clean Water Program was about \$3.5 million per year.

Contra Costa County's "2012 Community Clean Water Initiative" was conducted in three phases. The first phase included the financial and cost analysis outlined above, a review of different funding mechanisms, a survey of voters, and recommendations. Based on the analysis and survey results, the recommendation was to develop a countywide, watershed-based, three-tiered rate, balloted, property-related fee funding initiative. The County was divided into three primary watershed groups: West, Central, and East. The base rate for a typical single-family home was \$19 per year in the West watersheds, \$22 per year in the Central watersheds, and \$12 per year in the East watersheds. Phase 2 involved developing a Fee Report and Action Plan for implementation of the funding initiative, and Phase 3 involved community outreach,

and property owner noticing and balloting. This resulted in the following process to implement a property-related fee in conformance with Article 13 D of the California Constitution:

- **Notice of Public Hearing.** A notice was mailed to all property owners subject to the fee outlining the amount of the fee, the basis for calculating the fee, the reason for the fee, and the date, time, and location of a public hearing on the proposed fee.
- **Public Hearing for Public Comment.** The County Board of Supervisors, as the governing board of the Flood Control District, held the hearing, considered about 400 written protests that had been submitted, and directed staff to move forward with the balloting.
- **Mailed Ballots.** Ballots were mailed to all property owners subject to the fee that included a voter information guide, postage paid return envelope, and a balloting deadline more than 45 days from the mailing date.
- **Ballots Counted.** Mailed-in ballots were taken to a private accounting firm that counted the votes, along with observers to ensure fairness.
- **Election Results.** The County Board of Supervisors approved the final election results.

When the ballots were all cast and counted the measure failed with 60% No votes and 40% Yes votes. As a result, the County did not adopt the proposed property-related fee. The following are some of the key information points about the election:

- About 340,000 ballots were mailed to County property owners.
- About 100,000 ballots were returned, a relatively high return rate.
- The overall time to process the funding initiative was one and a half years and cost about \$1.5 million, not including a \$1.0 million branding campaign conducted over the prior several years.

In looking back at the election process and results, there were several lessons that were learned. The local newspaper opposed the funding measure, publishing 11 major opinion columns and about a dozen Letters to the Editor during the balloting period. The County followed the legal requirements for a property-related fee, which is different than a regular election that voters are more familiar with. The newspaper focused a lot of attention on the process citing the following issues:

- Only landowners vote, not all residents, even though all residents use water.
- The County Elections Department was not involved, so the agency proposing the fee was also the agency conducting the election.
- The ballot pamphlet and mailer did not contain an impartial analysis, or arguments for and against the funding measure.
- Ballots required the signature of the property owner on the voting card, a legal requirement for a property-related fee but not for a general election.